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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,141	11/05/2003	Eric J. Streciwilk	380-146	7815
1009	7590	11/23/2007	EXAMINER	
KING & SCHICKLI, PLLC 247 NORTH BROADWAY LEXINGTON, KY 40507			PHAM, MINH CHAU THI	
			ART UNIT	PAPER NUMBER
			1797	
			MAIL DATE	DELIVERY MODE
			11/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/702,141

Applicant(s)

STRECIWILK, ERIC J.

Examiner

Minh-Chau T. Pham

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

After thoroughly considering the Appeal Brief, the finality of this application is hereby withdrawn, and the prosecution is re-opened for this case.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell (3,853,517).

Mitchell teaches a vacuum cleaner comprising a housing (10), a nozzle inlet (30), a suction generator, a dirt cup (14) carried on the housing, the dirt cup (14) including a dirt collection chamber, a filter assembly (16) including a filter housing (18) defining a filter chamber, and the filter housing (18) mating with the dirt cup (14) (see 26 in Fig. 1), and a filter element (22) held in the filter chamber (18) in the filter housing (10). Mitchell further teaches the filter housing (18) having a base (at 26), a sidewall (16) and a top (20) and the base including an inlet opening in fluid communication with the open end of the dirt cup (14) (see Fig. 1, col. 2, lines 15-26). Mitchell further teaches the filter assembly (16) further including a ribbed filter support (see 28 in Fig. 1) having a cavity to house a concave or a frustoconical filter element (see 22 in Fig. 1), and the vacuum cleaner further comprising a filter screen (36) held by the base across the inlet opening (see Fig. 1). Mitchell further teaches the dirt collection chamber being cylindrical in

shape (see Fig. 1) and the inlet (30) being tangentially directed with respect to a sidewall of the dirt collection chamber.

Response to Arguments

Applicant's arguments filed on October 15, 2007 via Appeal Brief have been fully considered but they are not persuasive.

Applicant argues that none of the cited prior arts discloses "a filter housing and filter chamber that mate with the open end of the dirt cup". The Examiner now drops all the previous cited prior arts Scafani and Boles, and newly introduces Mitchell as the primary reference under the 102(b) rejection of claims 1-16 to show: Mitchell teaches a vacuum cleaner comprising a housing (10), a nozzle inlet (30), a suction generator, a dirt cup (14) carried on the housing, the dirt cup (14) including a dirt collection chamber, a filter assembly (16) including a filter housing (18) defining a filter chamber, and the filter housing (18) mating with the dirt cup (14) (see 26 in Fig. 1), and a filter element (22) held in the filter chamber (18) in the filter housing (10), as claimed. Mitchell further teaches the filter housing (18) having a base (at 26), a sidewall (16) and a top (20) and the base including an inlet opening in fluid communication with the open end of the dirt cup (14) (see Fig. 1, col. 2, lines 15-26). Mitchell further teaches the filter assembly (16) further including a ribbed filter support (see 28 in Fig. 1) having a cavity to house a concave or a frustoconical filter element (see 22 in Fig. 1), and the vacuum cleaner further comprising a filter screen (36) held by the base across the inlet opening (see Fig. 1). Mitchell further teaches the dirt collection chamber being cylindrical in shape (see

Fig. 1) and the inlet (30) being tangentially directed with respect to a sidewall of the dirt collection chamber.

Applicant's arguments with respect to claims 1-16 have been thoroughly considered but are moot in view of the new ground(s) of rejection, as discussed above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Chau T. Pham whose telephone number is (571) 272-1163. The examiner can normally be reached on Mon/Tues/Thur/Fri 7:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number:

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Art Unit: 1797


Minh-Chau Pham

Patent Examiner

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November 20, 2007

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